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AD HOC COMMITTEE TO REVIEW THE REGULATION  
UNDER THE FUNERAL SERVICES ACT



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Ad Hoc Committee to Review the Regulation  
Under the Funeral Services Act

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A. INTRODUCTION

The Board of Funeral Services is established under the Funeral Services Act, a statute which provides for the governance of funeral directors and establishments in Ontario. The Board, which reports to the Minister of Health, is responsible for enforcing Regulation 399 made under the Act.

Regulation 399 deals with such matters as licensing of funeral directors, requirements for funeral services establishments, professional misconduct and advertising by funeral directors.


On July 5, 1984, the Board met with the Honourable Keith C. Norton, Minister of Health, to discuss a variety of matters of concern to the Board and the Minister. At the meeting it was agreed that an ad hoc committee be established to review certain aspects of the Regulation.

B. TERMS OF REFERENCE

The purpose of the committee was to make recommendations, if appropriate in the form of draft regulations, to the Board of Funeral Services for its consideration in the making of regulations.

The subjects to be covered were:

1. Section 19 of Regulation 399 relating to price advertising.
2. Clause 16(e) of Regulation 399 relating to "excessive" charges.



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D. MEETINGS

The ad hoc committee met on three occasions, September 26, October 10 and November 9, 1984.

E. RECOMMENDATIONS

Different Grades and Prices of Caskets

The ad hoc committee is concerned that the existing wording of subsection 13(5) of Regulation 399 is so vague that in the absence of voluntary compliance it would not have its apparent intended effect of ensuring that funeral purchasers are provided with a variety of price choices. The Board acknowledges that it is having difficulty enforcing the subsection in the infrequent case where the funeral director wishes to take advantage of the ambiguous wording and reduce price choice particularly at the low end of the range.

Recommendation No.1 - Unanimous

The ad hoc committee therefore recommends that subsection 13(5) of Regulation 399 be revoked and the following be substituted therefor:

- 13(5)        The premises of a funeral services establishment shall have a casket display room with at least eight adult caskets of different grades and prices on display, including two cloth-covered and two wood caskets, one of which shall be the lowest priced casket offered by the funeral services establishment.
- 5(a)        Subsection 5 does not apply to containers other than caskets.





3. Itemized pricing [see recommendation 33 of the Standing Committee on Procedural Affairs Report on Agencies, Boards and Commissions (No. 8) which is quoted verbatim on page 6].
4. Subsection 13(5) of Regulation 399 relating to the definition of "different" grades and prices of caskets.

NOTE:

Cemetery/Funeral Home Combinations

Between the time the ad hoc committee was established and the date of its first meeting it received a request from the Minister's office to consider this issue in addition to the items in its original terms of reference (Subsection 13 of the Regulation prohibits the operation of a funeral home in connection with a cemetery). At its first meeting it agreed to comply with the request but decided to report on this issue separately. This approach was taken because it was felt by the ad hoc committee that it would be unable to consider this particularly complex issue adequately in time to meet the Minister's request for reporting by year-end on the matters in the original terms of reference.

C. COMPOSITION

The membership of the ad hoc committee was constituted as follows:

<u>Name</u>	<u>Organization</u>
Mr. Gerry Lougheed, Jr.	Board of Funeral Services
Mr. Brian McGarry	Board of Funeral Services
Mr. Andy Doyle	Ontario Funeral Service Association
Mr. Michael MacIntyre	Ontario Funeral Service Association
Ms. Joanne Marshall	Federation of Ontario Memorial Societies
Mr. Eric Inch	Federation of Ontario Memorial Societies
Mr. Paul Gardner	Ontario Ministry of Health
Mr. Tom Murphy	Ontario Ministry of Health



- 5(b) Subsection 5 does not preclude a funeral establishment from providing an alternative container of a lesser value than the lowest priced casket.

#### Price Advertising

The ad hoc committee agreed that the absolute prohibition of the inclusion by a funeral director in his advertising of any reference to price or conditions of sale was not warranted. The committee was, however, of the opinion that such advertising ought to continue to be regulated to protect consumers from unethical advertising.

#### Recommendation No.2 - Unanimous

The ad hoc committee therefore recommends that subsection 19(2) of Regulation 399 be revoked and the following substituted therefor:

- (2) No funeral director shall in his advertising include any reference to price or conditions of sale unless the services and supplies to which the price applies are clearly and accurately stated.

#### Excessive Pricing

The ad hoc committee is of the opinion that the existing wording of clause 16(2) of Regulation 399 is virtually unenforceable since almost any charge could be justified in relation to the services performed, since there is no mention as to what services may have been requested. The ad hoc committee believes that tying this clause to the services actually requested by a client together with its recommendation on price itemization (below) will have the effect of making the ban on excessive pricing enforceable.





Recommendation No.3 - Unanimous

The ad hoc committee therefore recommends that clause 16(e) of Regulation 399 be revoked and the following be substituted therefor:

- (e) charging fees that are excessive in relation to the services requested or performed.

Price Itemization

Unlike the previous items a consensus was not reached about regulations relating to price itemization.

There was considerable discussion about the meaning of the recommendation of the Standing Committee on Procedural Affairs (SCPA) Report on Agencies, Boards and Commissions (No. 8). It is reproduced below for quick reference.

Another matter of concern to the Committee was the issue of how the customer learns about the cost of a funeral. The Committee believes that all funeral directors should provide a written itemized list of costs a customer could incur depending on the kind of service he ultimately chose. The customer should not be given only a verbal estimate of the total cost, since when finally billed the customer will not always remember what services he had agreed to. The Committee believes that the Board of Funeral Services should be given the authority to require funeral directors to provide written itemized cost estimates. Your Committee, therefore, recommends that:

- 33. The regulations under the Funeral Services Act be amended to give authority to the Board of Funeral Services to require funeral directors to provide written itemized cost estimates of funerals.



### General Points of Agreement

After due consideration of this matter the ad hoc committee agreed on the following points:

1. All funeral arrangements should be by written purchase agreement.
2. The purchaser of a funeral should have a written statement setting out what has been purchased and the cost.
3. The purchaser of a funeral should be made aware that itemized pricing is available.

In addition, the Federation of Ontario Memorial Societies concluded that:

- (a) the statement of the cost of the services and supplies purchased should be itemized in each case and that
- (b) the consumer should not have to request an itemized list.

### Recommendation No.4 -

#### Board of Funeral Services and Ontario Funeral Services Associations Representatives

Based on the SCPA recommendation and the points agreed upon as set out above, the representatives of the Board of Funeral Services and the Ontario Funeral Service Association recommend that the following new section be added to Regulation 399:

- (1) A funeral director shall provide a copy of a purchase agreement to everyone purchasing funeral services and supplies describing the services and supplies purchased and the total cost.





- (2) A purchase agreement is not valid unless it is signed by both the funeral director and purchaser or his representative.
- (3) The purchase agreement shall contain a written statement that itemization of price is available.
- (4) The itemization referred to in subsection 3 shall contain as a minimum the cost of professional and staff services, embalming or other preparation of remains, use of facilities for visitation or service or both, use of facilities for embalming or shelter of remains or both, local transfer of remains, lead car, funeral coach, family car, other automotive, casket or container, urn or outer container for grave or shipment.

Recommendation No.5 - Federation of Ontario Memorial Societies Representatives

Based on the SCPA recommendation and the points agreed upon above and its own additional conclusions the Federation of Ontario Memorial Societies recommends that the following new section be added to Regulation 399 instead of the new section recommended by the Board of Directors of Funeral Service and the Ontario Funeral Service Association.

- (1) A funeral director shall provide a copy of a purchase agreement to everyone purchasing funeral services and supplies describing the services and supplies purchased and the cost of each.
- (2) A purchase agreement is not valid unless it is signed by both the funeral director and purchaser or his representative.



- (3) The itemization referred to in subsection 1 shall contain as a minimum the cost of professional and staff services, embalming or other preparation of remains, use of facilities for visitation or service or both, use of facilities for embalming or shelter of remains or both, local transfer of remains, lead car, funeral coach, family car, other automotive, casket or container, urn and outer container for grave or shipment.

The representatives of the Federation of Ontario Memorial Societies are of the opinion that:

- (a) An itemized purchase agreement should be provided to the purchaser as a matter of course and not only upon request. This would improve the purchaser's ability to be an informed consumer.
- (b) An equivalent of the itemized purchase agreement in the form of a "quotation" should be available to any person who requests it, not only to the person who has agreed to purchase a funeral. This would improve a consumer's ability to make price comparisons.

The Board of Funeral Services regards these suggestions as unwarranted by the nature and numbers of complaints it receives. The Ontario Funeral Service Association regards these suggestions as an unwarranted infringement on the funeral director's right to offer and price his services in a manner suited to his business and the community he serves, and feels recommendation #4 mandates sufficient itemization for those who elect to have it.

Recommendation No. 6 - Federation of Ontario Memorial Societies Representatives

The representatives of the Federation of Ontario Memorial Societies are of the opinion that:





4. (a) An itemized list of services available from the funeral establishment should be given to any person who requests it. This general price list is seen as separate from the previously discussed itemized purchase agreement or quotation which refers to specifically chosen services or supplies. The availability of such a general price list would make consumers more aware of the supplies and services which could be chosen and the cost which could be incurred.
- (b) A separate price list for caskets (not expressed as a range of prices) should be available.

Therefore, the Federation of Ontario Memorial Societies also recommends the addition of the following new section to Regulation 399:

- (1) Every funeral director shall maintain a current written price list.
- (2) The price list referred to in subsection 1 shall contain at a minimum a list of the services and supplies offered for sale by the funeral director and contained in Form 16, and the price for each.
- (3) Every funeral director shall, in addition to the price list mentioned in subsection (1) maintain a current written list of caskets and containers offered for sale by the funeral director which contains the name and model number, a brief description and the price for each.
- (4) The price list referred to in subsection 1 may also contain a list of combinations of services and supplies and prices therefor.



- (5) Every funeral director shall, at an appropriate time during discussion of the funeral arrangements but before the selection of funeral services or supplies, inform each person arranging or enquiring about the feasibility of arranging a funeral of the availability of the price lists referred to in subsections 1 and 3. The price lists shall be freely available to the enquirer upon request without any obligation to purchase.
- (6) Every funeral director shall provide for retention a copy of the price lists referred to in subsections 1 and 3 to every person who enters the funeral establishment and requests one.
- (7) Except for the prices mentioned in section 3, prices may be expressed as a fixed charge, a range, an hourly rate, a rate per kilometre or other unit of computation as the case requires.

The Board of Funeral Services regards these proposed regulatory requirements as an unnecessary and expensive intrusion into the funeral directors' affairs.





FORM 16

Name, address and telephone number  
of funeral director

The following is a list of some of the services and supplies available. If you have additional requirements, please consult the funeral director. You may select only those items you require. However, all funeral arrangements will include a charge for professional and staff services. The list does not include cash disbursements made on your behalf. Embalming may be required in certain circumstances and is required by Ontario law where the remains are to be transported outside Ontario.

Professional and staff services .....	\$
Embalming .....	\$
Use of facilities for visitation and/or service .....	\$
Use of facilities for embalming and/or shelter of remains...	\$
Local transfer of remains .....	\$
Clergy/lead car .....	\$
Funeral coach .....	\$
Family car .....	\$
Other automotive .....	\$
Casket or container .....	\$
Urn .....	\$
Outer container for grave or shipment .....	\$







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